IN THE HIGH COURT OF JUDICATURE AT BOMBAY

O O.C.J

Writ Petition No.522 of l992

B.B.Garud and ors..Petitioners
vs
Bombay Mun Corpn and ors..Respondents

Mr.J S Chandnani for petitioners
Mr C U Singh Senior Counsel with Mrs N V Sanglikar for respondents

CORAM: A.P.SHAH & S.J.VAZIFDAR JJ.

Dated l4.l.2005

P.C:

. Heard Mr.Chandnani appearing for the petitioners and Mr.C.U.Singh appearing for the respondents.

2. This petition involves the question of seniority of the employees working in two departments of the Bombay Municipal Corporation i.e. Chief Accountants Department and Additional Chief Accountant‘s department. The Chief Accountant‘s department has been in existence since inception of the Municipal Corporation. The Additional Chief Accountant‘s department came to be established in the year l973-74 when the Corporation got financial aid from the World Bank for implementing various water supply and sewerage projects in Greater Bombay. It appears that at the

time of granting the loan, the World Bank had insisted upon the Corporation to maintain separate accounts in respect of loan which would be granted by the World Bank and therefore the Corporation created a department known as Finance and Administrative Wing of water supply and sewerage disposal (commonly known as Additional Chief Accountant‘s department). The petitioners are employed in Additional Chief Accountant‘s department. It appears that separate seniority lists are maintained in these two departments upto the post of Dy Chief Accountant though the qualifications prescribed for the respective posts in both the departments are the same and the designations are also identical except in the case of sub accountant in Additional Chief Accountant‘s department,which does not exist in Chief Accountants Department,which is similar to AA II’s post in Chief Accountants Department.

3. The petitioners submit that preparation of the combined list only at the level of Dy Chief Accountant in two Wings within the same discipline is arbitrary, unreasonable and capricious. The merging of the two departments only at the top level is contrary to the accepted principles of

service jurisprudence, when the hierarchy in both the departments is same and the qualifications for the posts in both the Wings are the same. According to the petitioners the employees working in the Chief Accountant‘s department are getting accelerated promotions, while there are practically no promotional avenues for the persons working in the Additional Chief Accountants Department as a result the employees who were junior to petitioners have been promoted and became senior to the petitioners . The petitioners are relying upon the opinion given by the Dy Municipal Commissioner (Personnel) that the present system of common seniority only at the top level of Dy Chief Accountant was not proper and therefore the Addl Chief Accountant‘s department/ Chief Accountant‘s department should evolve a system of common seniority in both the Wings.

4. We have heard the learned counsel for the parties at some length. It appears that at one stage the Corporation had taken a decision to prepare a common seniority list for both the wings of the Accounts Department and change notice was also given under the Industrial Disputes Act. However, the proposal was abandoned due to

opposition by the employees union. We direct the Municipal Commissioner to treat this petition as representation from the employees working in Additional Chief Accountant‘s department and consider whether it is feasible to have a common seniority list for two wings of the Accountant‘s department and make a report to this court within three months.

S.O.to 2.5.2005